
SENATE BILL No. 52

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-24-1.

Synopsis: Disposal of contaminated soil. Requires approval by the county plan commission or county executive for the movement of soil contaminated with petroleum to a site in the county from a different county.

Effective: July 1, 2004.

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November 21, 2003, read first time and referred to Committee on Environmental Affairs.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 52

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 13-24-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) **Subject to**
3 **section 2.5 of this chapter**, the commissioner may issue an order
4 under:

- 5 (1) IC 13-14-2-7;
- 6 (2) IC 4-21.5-4; or
- 7 (3) IC 4-21.5-3-6;

8 to require an owner or operator or a responsible person to undertake
9 removal or remedial action with respect to a release of petroleum at a
10 petroleum facility.

11 (b) **Subject to section 2.5 of this chapter**, if the commissioner
12 determines that the removal or remedial action will be done properly
13 and promptly by the owner, operator, or responsible person, the
14 commissioner may enter into an agreed order with the owner, operator,
15 or responsible person to implement necessary removal or remedial
16 action.

17 (c) If the commissioner and the owner or operator or the responsible

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party fail to agree on the appropriate and necessary removal or remedial action to be taken, the dispute shall be resolved under IC 4-21.5.

SECTION 2. IC 13-24-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. (a) Except as provided in subsection (c) **and subject to section 2.5 of this chapter**, the commissioner may undertake removal or remedial action with respect to a release of petroleum at a petroleum facility if:

(1) the action is necessary, in the judgment of the commissioner, to protect human health and the environment; and

(2) a person cannot be found not later than ninety (90) days after the suspected or confirmed release is identified who is:

(A) an owner or operator of the petroleum facility or a responsible person; and

(B) capable of properly carrying out removal or remedial action with respect to the release.

(b) In undertaking removal or remedial action under subsection (a), the commissioner shall give priority to releases of petroleum from a petroleum facility that pose the greatest threat to human health and the environment.

(c) **Subject to section 2.5 of this chapter**, the commissioner may undertake or require removal or remedial action with respect to a release of petroleum into the environment if it is determined that an emergency exists under IC 4-21.5-4.

SECTION 3. IC 13-24-1-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 2.5. (a) This section applies to the movement of soil contaminated with petroleum from the site of the petroleum facility from which the contamination originated to a site in a different county:**

(1) under an:

(A) order; or

(B) agreed order;

issued or entered into under section 1 of this chapter; or

(2) as part of work undertaken by the commissioner under section 2 of this chapter.

(b) The commissioner shall:

(1) notify:

(A) the local plan commission that has jurisdiction over the area; or

(B) if no local plan commission has jurisdiction under clause (A), the executive of the county;

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1 where the site to which the soil is proposed to be moved is
 2 located; and

3 (2) give the notice required under subdivision (1) not less than
 4 sixty (60) days before:

5 (A) the date the commissioner proposes for the:

6 (i) order; or

7 (ii) agreed order;

8 referred to in subsection (a)(1) to take effect; or

9 (B) the date the commissioner proposes to begin the
 10 movement of the soil.

11 (c) The notice given under subsection (b)(1) must:

12 (1) identify the site to which the soil is proposed to be moved;
 13 and

14 (2) include the date referred to in subsection (b)(2)(A) or
 15 (b)(2)(B).

16 (d) The commissioner may not:

17 (1) issue an order; or

18 (2) enter into an agreed order;

19 referred to in subsection (a)(1) or undertake the movement of the
 20 soil unless the commissioner receives, not less than ten (10) days
 21 before the date referred to in subsection (b)(2)(A) or (b)(2)(B),
 22 notice in writing from the entity referred to in subsection (b)(1) of
 23 the entity's approval of the movement of the soil.

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